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BILL LOCKYER  
Attorney General of the State of California  
TOM GREENE  
Chief Assistant Attorney General  
THEODORA BERGER  
Senior Assistant Attorney General  
DON ROBINSON  
Supervising Deputy Attorney General  
ANN RUSHTON, State Bar No. 62597  
Deputy Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Telephone: (213) 897-2608  
Fax: (213) 897-2802

Attorneys for Plaintiff PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel. California Department of Toxic  
Substances Control

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CENTRAL DISTRICT

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

DEC 22 2005

John A. Clarke, Executive Officer/Clerk  
By D.M. Swain Deputy  
D.M. Swain

BC345012

PEOPLE OF THE STATE OF  
CALIFORNIA, ex rel. California  
Department of Toxic Substances Control,

Plaintiff,

v.

AMBITECH, INC., a Nevada Corporation,  
JAMES JANDA, AMERICA JANDA, and  
Does 1 to 10,

Defendants.

CASE NO.

COMPLAINT FOR CIVIL PENALTIES  
AND INJUNCTIVE RELIEF

(Calif. Health and Safety Code sections  
25189 and 25189.2)

The People of the State of California, ex rel. the Department of Toxic Substances  
Control ("the Department"), allege as follows:

STATEMENT OF THE CASE

1. Defendant Ambitech Inc. ("Ambitech") operates a circuit board manufacturing facility  
with electroplating operations at 8944 Fullbright Avenue, Chatsworth, California (the "facility").

1 James Janda and America Janda are the owners of the Ambitech facility. At its facility  
2 Ambitech treats hazardous waste and is therefore regulated as a hazardous waste management  
3 facility. (Health & Saf. Code § 25201.) Ambitech generates spent hazardous, corrosive plating  
4 solutions, rinse waters and sludges that include dissolved metals. Ambitech also generates  
5 extremely hazardous, potentially reactive, wastes containing cyanide.

6 2. While managing these hazardous and extremely hazardous wastes, Ambitech has  
7 violated and continues to violate the California Hazardous Waste Control Law, Chapter 6.5 of  
8 Division 20 of the California Health and Safety Code, sections 25100 *et seq.* ("HWCL") by  
9 handling hazardous waste in an unsafe manner.

10 3. The Department hereby seeks civil penalties from and injunctive relief against  
11 Defendants for their past and on-going violations of the HWCL and its implementing  
12 regulations.

#### 13 PLAINTIFF

14 4. The Department is a public agency of the State of California organized and existing  
15 under and pursuant to Health and Safety Code section 58000 *et seq.*

16 5. Pursuant to sections 25181 and 25182 of the Health and Safety Code, the Attorney  
17 General of the State of California is authorized, at the request of the Department, to commence  
18 an action in the name of the People for civil penalties and injunctive relief under the HWCL.  
19 The Department has asked the Attorney General to apply to this Court for an injunction  
20 enjoining Defendants from continuing violations of the HWCL.

#### 21 DEFENDANTS

22 6. Ambitech is a circuit board manufacturer. It operates various electroplating processes  
23 that generate hazardous wastes, including corrosive (i.e., alkaline and acidic) wastes (Cal. Code  
24 Regs., tit. 22, § 66261.22), wastes containing dissolved metals, and extremely hazardous and  
25 potentially reactive cyanide-bearing wastes. (Cal. Code Regs., tit. 22, § 66261.23). Ambitech  
26 treats some of the hazardous wastes it generates on-site.

27 7. Ambitech is a Nevada corporation, a "person," as defined at Health and Safety Code  
28 section 25118. Ambitech is an "owner" and/or "operator" as defined in California Code of

1 Regulations, title 22, section 66260.10.

2 8. James Janda and America Janda are “owners” and/or “operators” as defined in  
3 California Code of Regulations, title 22, section 66260.10. James Janda is also the president of  
4 Ambitech, Inc.

5 9. When reference is made in this complaint to any act of Ambitech, such allegation shall  
6 mean that each defendant did such acts or that employees or representatives of Ambitech did or  
7 authorized such acts or recklessly failed to adequately or properly supervise, control or direct  
8 Ambitech employees or representatives while engaged in the management, direction, operation  
9 or control of the affairs of Ambitech and did so while acting within the course and scope of their  
10 employment or agency.

11 10. Defendants Does 1-10 are the officers, agents, employees, servants or others acting in  
12 interest or concert with Ambitech. The Department is ignorant of the true names of defendants  
13 sued herein as Does 1-10. When the names of these defendants have been ascertained, the  
14 Department will seek leave to amend the complaint to substitute the true name of each Doe  
15 defendant in place of the fictitious name.

#### 16 JURISDICTION AND VENUE

17 11. This court has jurisdiction pursuant to Cal. Const. Art. 6, section 10. Venue is proper  
18 under Health and Safety Code section 25183. The violations principally took place at  
19 Ambitech’s place of business in the Chatsworth area of Los Angeles, California.

#### 20 STATUTORY AND REGULATORY BACKGROUND

21 12. The State of California has enacted a comprehensive statutory and regulatory  
22 framework for the generation, handling, treatment, transport and disposal of hazardous wastes.  
23 The HWCL’s implementing regulations specify requirements for the tracking, storage, treatment  
24 and disposal of hazardous waste to protect the public from the risks posed by improper  
25 management of hazardous wastes. (Cal. Code Regs, tit. 22, § 66260.1 *et seq.*)

26 13. In 1992, California adopted a tiered permitting scheme for hazardous waste  
27 management facilities. (The Wright-Polanco-Lempert Hazardous Waste Treatment Permit  
28 Reform Act of 1992, Stats.1992, c. 1345 (A.B.1772).) Companies that receive hazardous wastes

1 from other generators are generally subject to closer regulation than are companies that treat only  
2 hazardous waste that they generate themselves. Similarly, companies that treat, store or dispose  
3 of highly dangerous hazardous wastes are generally subject to closer regulation than are  
4 companies that only minimally handle hazardous wastes.

5 14. The middle tier of California's tiered permitting scheme for hazardous waste  
6 management facilities is known as the permit-by-rule tier. (Cal. Code of Reg., title 22, §  
7 67450.1 *et seq.*) It is available to hazardous waste generators who treat certain hazardous wastes  
8 by the treatment processes specified in California Code of Regulations, title 22, section  
9 67450.11. To be deemed to have a permit-by-rule, the generator must comply with the  
10 notification requirements and other requirements of section 67450.1 *et seq.*

11 15. Defendant Ambitech operates under permit-by- rule authorization.

12 ENFORCEMENT AUTHORITY UNDER THE HWCL

13 16. The HWCL authorizes the Court to issue civil penalties under two distinct and  
14 alternative provisions. Section 25189 of the Health and Safety Code creates liability for any  
15 negligent or intentional violation of the HWCL. Section 25189.2 is a strict liability provision,  
16 which creates liability for any violation of the HWCL. A person may not be held liable for  
17 separate civil penalties imposed under sections 25189 and 25189.2 for the same act. (Health &  
18 Saf. Code § 25189.2(d).)

19 17. Sections 25181 and 25184 of the Health and Safety Code authorize and direct the  
20 Court to enjoin any ongoing or potential violation of the HWCL.

21 18. Section 25181 of the Health and Safety Code provides that when the Department  
22 determines that any person has engaged in, is engaged in, or is about to engage in any acts or  
23 practices which constitute or will constitute a violation of any provision of the HWCL or any  
24 rule or requirement issued or promulgated thereunder, and when requested by the Department,  
25 the Attorney General may make application to the superior court for an order enjoining such acts  
26 or practices, or for an order directing compliance, and upon a showing by the Department that  
27 such person has engaged in or is about to engage in any such acts or practices, a permanent or  
28 temporary injunction, restraining order, or other order may be granted.

1       19.     Health and Safety Code section 25184 provides that in civil actions brought  
2 pursuant to the HWCL in which an injunction or temporary restraining order is sought:  
3       "it shall not be necessary to allege or prove at any stage of the proceeding that  
4 irreparable damage will occur should the temporary restraining order, preliminary  
5 injunction, or permanent injunction not be issued; or that the remedy at law is  
6 inadequate, and the temporary restraining order, preliminary injunction, or  
7 permanent injunction shall issue without such allegations and without such proof."

8                                   GENERAL ALLEGATIONS

9       23.     Ambitech generates corrosive, metal- and cyanide-bearing waste rinse water from  
10 electroplating operations, spent electroplating solutions containing dissolved metals, spent  
11 stripping and cleaning bath solutions, metal- and cyanide-bearing residues from electroplating  
12 solutions and metal-bearing sludge from waste water treatment.

13       24.     Ambitech has been authorized by the County of Los Angeles Fire Department (the  
14 local Certified Unified Program Agency) to treat certain hazardous wastes onsite, including  
15 spent electroplating solutions and process rinse waters containing metals, under permit-by-rule.

16       25.     On or about August 24, 2004, The Department inspected the Ambitech facility for  
17 compliance with the HWCL. The Department's inspector discovered violations of the HWCL.  
18 At the conclusion of the inspection, the Department's inspector provided Ambitech with a  
19 statement of violations (the "Statement of Violations). The violations observed by the inspector  
20 and noted in the Statement of Violations included:

21               a.     Ambitech violated California Code of Regulations, title 22, section  
22 66265.192, in that it failed to prepare a written tank system assessment, certified by a  
23 qualified, independent engineer registered in California, for tank systems owned and  
24 operated by Ambitech which are used to hold or treat hazardous wastes, including  
25 extremely hazardous cyanide-bearing wastes.

26               b.     Ambitech violated California Code of Regulations, title 22, section  
27 66265.13, in that it failed to maintain waste analysis records showing the hazardous  
28 characteristics of all hazardous wastes, including cyanide-bearing hazardous wastes, that it

1 treated onsite.

2 c. Ambitech violated California Code of Regulations, title 22, section  
3 66265.31, in that it spilled spent copper etchant, a hazardous waste, and failed to clean up  
4 the spent copper etchant.

5 d. Ambitech violated California Code of Regulations, title 22, section  
6 66265.173, in that Ambitech failed to keep three 55-gallon containers holding hazardous  
7 waste closed. Ambitech had three containers with their tops cut off so that the containers  
8 could not be closed. Two of the containers were more than half-full of plating bath filters  
9 contaminated with extremely hazardous cyanide-bearing wastes.

10 e. Ambitech violated California Code of Regulations, title 22, section  
11 66262.34, in that on the date of the Department's inspection, 21 of the 42 hazardous waste  
12 containers onsite were not properly labeled as such.

13 26. On or about October 4, 2004, the Department sent Ambitech a detailed  
14 inspection report (the "Inspection Report"). The Inspection Report cited Ambitech for the  
15 violations specified in the Statement of Violations that was issued on the date of the  
16 Department's inspection. In addition, the inspection report noted that the inspector observed an  
17 open trench which is used to convey hazardous material, and which is therefore a component of  
18 the hazardous waste tank system. The inspector was not able to determine how the trench was  
19 constructed and noted that it could not be visually inspected for leaks and corrosion since it was  
20 located in the floor below the elevated walkway in the electroplating process area of the facility.  
21 The inspector further noted in the inspection report that the certified tank system assessment  
22 must show that the secondary containment system for the tank system, including the trench  
23 system, meets the requirements specified in California Code of Regulations, title 22, section  
24 66265.193.

#### 25 FIRST CAUSE OF ACTION

26 (Failure to Obtain Certified Tank System Assessment as Required by  
27 California Code of Regulations, Title 22, section 66265.192)

28 27. Paragraphs 1 through 26 are realleged as if fully set forth herein.

28 28. California Code of Regulations, title 22, section 66265.192, as incorporated by

1 reference in sections 66262.34 and 67450.3(c)(9), requires hazardous waste management  
2 facilities to obtain “a written assessment reviewed and certified by an independent, qualified,  
3 professional engineer, registered in California in accordance with section 66270.11(d) attesting  
4 that the system has sufficient structural integrity, is acceptable for transferring, storing, and  
5 treating hazardous waste, and that the tanks and containment system are suitably designed to  
6 achieve the requirements of article 10 in Chapter 15 of the California Code of Regulations. This  
7 assessment shall be obtained prior to placing the tank system in service, and shall be kept on file  
8 at the facility.”

9       29. California Code of Regulations, title 22, section 66260.10, as incorporated by  
10 reference in sections 66262.34 and 67450.3, defines “tank system” as a hazardous waste transfer,  
11 storage or treatment tank and its associated ancillary equipment and containment.

12       30. Ambitech uses tank systems to treat aqueous, corrosive, and metal-containing, and  
13 cyanide-bearing hazardous wastes. All of the tanks, pumps, pipes, plumbing and secondary  
14 containment comprising these tank systems which are used to hold, store, convey, or treat  
15 hazardous wastes are subject to the tank assessment requirements.

16       31. As of August 24, 2004, Ambitech did not have a written tank system assessment  
17 certified by an independent, qualified, professional engineer registered in California for its  
18 hazardous waste tanks and tank system.

19       32. Ambitech transmitted to the Department a document entitled “Assessment and  
20 Certification of Tanks and Secondary Containment” on or about October 15, 2004.

21       33. Following the Department’s further correspondence detailing the inadequacies of  
22 the “Assessment and Certification of Tanks and Secondary Containment,” Ambitech submitted  
23 revisions to the “Assessment and Certification of Tanks and Secondary Containment” on or  
24 about November 19, 2004, and January 19, 2005.

25       34. The documents submitted by Ambitech, whether considered separately or together,  
26 do not contain the information required by section 66265.192. The documents are incomplete  
27 and conclusory and do not constitute or demonstrate compliance.

28       35. Defendants violated, and continue to violate, California Code of Regulations, title

22, section 66265.192 in that Ambitech utilizes hazardous waste tank systems and has not prepared an adequate written tank system assessment for each of its tank systems.

## SECOND CAUSE OF ACTION

(Failure to Provide Adequate Separation of Incompatible Hazardous Wastes Within a Tank System, a Violation of California Code of Regulations, Title 22, sections 66265.31 & 66265.199)

36. Paragraphs 1 through 26 are realleged as if fully set forth herein.

37. California Code of Regulations, title 22, section 66265.31, as incorporated by reference in sections 66262.34 and 67450.3, requires the owners and operators of hazardous waste management facilities to maintain and operate the facilities in a manner that minimizes “the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents.”

38. California Code of Regulations, title 22, section 66265.199, as incorporated by reference in sections 66262.34 and 67450.3, prohibits owners and operators of hazardous waste management facilities from placing incompatible wastes in the same tank system, except as specified therein.

39. California Code of Regulations, title 22, section 66260.10, as incorporated by reference in sections 66262.34 and 67450.3, defines “tank system” as a hazardous waste transfer, storage or treatment tank and its associated ancillary equipment and containment.

40. On or about October 24, 2004, Ambitech placed incompatible acidic and cyanide-bearing wastes in the same tank system. Plating process waste from Ambitech’s “wet floor” operations, including plating process chemicals from cyanide plating operations, are collected in a trench which is a part of, or contiguous to, the secondary containment system for hazardous waste tanks. In the event of a leak or spill, liquids from acid waste treatment tanks may flow into the trench and commingle with cyanide-bearing liquids from the plating process tanks. Therefore, the tanks, piping and trenching used to manage acidic and cyanide-bearing wastes are not segregated or separately contained to prevent mixing of incompatible hazardous materials and wastes in the event of a leak or spill. Commingling of acidic and cyanide-containing wastes can cause the release of extremely hazardous hydrogen cyanide gas.

41. Defendants violated, and continue to violate, California Code of Regulations, Title 22, sections 66265.31 and 66265.199 in that Ambitech treats and/or stores incompatible acidic and cyanide-bearing wastes in a single tank system.

### THIRD CAUSE OF ACTION

(Failure to Maintain Adequate Secondary Containment Systems  
Required by California Code of Regulations,  
Title 22, sections 66265.31 & 66265.193(a)(1), and (f))

42. Paragraphs 1 through 26 are realleged as if fully set forth herein.

43. California Code of Regulations, Title 22, section 66265.193(a)(1), and (f), as incorporated by reference in sections 66262.34 and 67450.3, requires the owner or operator of a hazardous waste management facility to provide and maintain adequate secondary containment for its tanks, pipes and other ancillary equipment.

44. On or about August 24, 2004, Ambitech failed to maintain an adequate secondary containment system. Ambitech has failed to supply separate secondary containment for its tanks holding incompatible acidic and cyanide-bearing wastes. In addition, on November 19, 2004 Ambitech submitted a document to the Department a document titled “Assessment and Certification of Tanks and Secondary Containment” that contained statements indicating the secondary containment that has been provided for the hazardous waste tank systems owned and operated by Ambitech requires repairs to be able to prevent releases of leaked waste to “subsurface strata”. In a letter to Ambitech dated December 22, 2004 the Department notified Ambitech that it is a violation to not provide adequate secondary containment for hazardous waste tanks. Ambitech has not provided the Department with any documentation to show that this violation has been corrected.

45. Defendants violated, and continue to violate, California Code of Regulations, Title 22, section 66265.193.

#### FOURTH CAUSE OF ACTION

(Failure to Analyze Hazardous Waste as Required by California Code of Regulations, Title 22, section 66265.13)

46. Paragraphs 1 through 26 are realleged as if fully set forth herein.

47. California Code of Regulations, Title 22, section 66265.13, as incorporated by reference in sections 66262.34 and 67450.3, requires that facility treating waste under a Permit-by-Rule analyze the hazardous waste that it treats before treating the hazardous waste.

48. On or about August 24, 2004, Ambitech could not produce to the Department a complete set of analytical records for the hazardous wastes, including cyanide-containing hazardous wastes, that Ambitech treats onsite. The analytical records that Ambitech did produce included inconsistencies, and did not provide information about each of the hazardous wastes treated by Ambitech.

49. Defendants violated California Code of Regulations, Title 22, section 66265.13 in that Ambitech did not have accurate waste analysis records for hazardous waste that it was treating.

## FIFTH CAUSE OF ACTION

(Failure to Cleanup and Containerize Spilled Hazardous Waste as Required by California Code of Regulations, Title 22, section 66265.31)

50. Paragraphs 1 through 26 are realleged as if fully set forth herein.

51. California Code of Regulations, title 22, section 66265.31 as incorporated by reference in sections 66262.34 and 67450.3, requires the owners and operators of hazardous waste management facilities to maintain and operate the facilities in a manner that minimizes “the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents.”

52. On or about August 24, 2004, Ambitech violated California Code of Regulations, title 22, section 66265.31, in that Ambitech spilled spent copper etchant on the ground in and around the employee parking lot and failed to clean up the spent copper etchant which is a hazardous waste.

53. Defendants violated California Code of Regulations, Title 22, section 66265.31 in that they failed to cleanup and containerize spilled hazardous waste.

## SIXTH CAUSE OF ACTION

(Failure to Maintain Hazardous Waste in Closed Containers as Required by California Code of Regulations, Title 22, section 66265.173)

54. Paragraphs 1 through 26 are realleged as if fully set forth herein.

55. California Code of Regulations, Title 22, section 66265.173, as incorporated by reference in sections 66262.34 and 67450.3, requires that containers holding hazardous waste be kept closed except when adding waste to, or removing waste from, the containers.

56. On or about August 24, 2004, Ambitech failed to keep three 55-gallon containers holding hazardous waste closed. Ambitech had three containers with tops cut off so that the containers could not be closed. Two of the containers were more than half-full of sludge and plating bath filters contaminated with extremely hazardous cyanide-bearing wastes.

57. Defendants violated California Code of Regulations, Title 22, section 66265.173 in that Ambitech failed to keep containers holding hazardous waste properly closed.

### SEVENTH CAUSE OF ACTION

(Failure to Label Containers of Hazardous Waste as Required by California Code of Regulations, Title 22, section 66262.34)

58. Paragraphs 1 through 26 are realleged as if fully set forth herein.

59. California Code of Regulations, Title 22, section 66262.34(f) requires that containers of hazardous waste be adequately labeled to identify the generator, the hazardous characteristics of the contents, and the accumulation start date of the waste in the container.

60. On August 24, 2004, Ambitech failed to label 21 of the 42 containers being used to hold hazardous waste that were onsite on the date of the Department's inspection.

61. Defendants violated California Code of Regulations, Title 22, section 66262.34(f) in that Ambitech failed to adequately label containers holding hazardous waste.

## REQUEST FOR RELIEF

The Department requests that the Court grant the relief that follows:

1. Enter judgment that Ambitech, James Janda, America Janda and Does 1-10 have violated the Hazardous Waste Control Law as described in the First through Seventh Causes of Action;

2. Enter judgment that Ambitech, James Janda, America Janda and Does 1-10 are

1 liable for civil penalties for those violations as authorized by Health and Safety Code section  
2 25189 or, in the alternative, by Health and Safety Code section 25189.2, according to proof;

3 3. Enter temporary restraining orders, preliminary injunctions, permanent injunctions,  
4 or other orders requiring Ambitech, James Janda, America Janda and Does 1-10 to comply with  
5 the applicable permits, the HWCL and/or the regulations adopted thereunder;

6 4. Grant the Department its costs of suit herein; and

7 5. Grant such other and further relief as the court deems just and proper.

8  
9 Respectfully submitted,

10 BILL LOCKYER  
Attorney General of the State of California

11 TOM GREENE  
Chief Assistant Attorney General

12 THEODORA BERGER  
Senior Assistant Attorney General

13 DON ROBINSON  
Supervising Deputy Attorney General

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17 Original Signed by Ann Rushton  
ANN RUSHTON  
Deputy Attorney General  
Attorneys for Plaintiff  
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